IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO: 12779 of 2005

Between:

Bhukya Somla Naik, S/o.Laxmi Naik,
r/o.H.No.8-68, Lal Bahudur Bazar, Madhira Town & Mandal, Khammam Dist.

..... PETITIONER

A N D

1 The District Collector, Khammam District.
2 The Superintendent of police, Khammam District.
3 The Mandal Revenue officer, Madhira Village, Khammam Dist.
4 Dharavath Samba S/o.Mangya,
R/o.Banjara Colony, Madhira, Khammam Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not restoring the possession of

the petitioner's land in plot No.28, situated at Banjara Colony, Madhira, Khammam District, from the illegal possession of the 4th respondent as arbitrary, illegal and violative of Article 14 and 300-A of the Constitution of India and consequently direct the respondents to restore the possession of the petitioner's land to the petitioner with the help and coordination of all the authorities concerned and further be pleased to pass such other orders as deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: R.P.THIRUMALA RAO

Counsel for the Respondents: GOVT.PLEADER FOR REVENUE

The Court at the stage of admission made the following: (order follows 2nd page)

O R D E R:

This writ petition is filed seeking to declare the action of the respondents in not restoring the possession of the petitioner’s land in Plot No.28, situate at Banjara Colony, Madhira, Khammam district from the illegal possession of the fourth respondent as arbitrary, illegal and violative of Article 14 and 300-A of the Constitution of India and consequently direct the respondents to restore his possession over the said land.

The case of the petitioner is that he belongs to scheduled tribe and resident of Madhira, Khammam district. In the year 1979 the Government of A.P. by way of assignment vide Proc.Rc.No.B2/1252/79 allotted a house site, admeasuring Ac:0-05 cents i.e., Plot No.28, Banjara colony, Madhira (v) to the petitioner. Ever since the date of assignment of the said plot, he was in possession and enjoyment over the same. In the year 1985, the fourth respondent illegally trespassed into his land and occupied the same. The petitioner’s resistance proved futile, as the fourth respondent is an influential person, employed unsocial elements in order to grab his land. Thereafter, he approached the revenue authorities and filed a complaint.

Pursuant to the said complaint, the Mandal Revenue Officer, Madhira, through Proceedings Rc.No.A2-158/90, dated 18-2-2000 directed the fourth respondent to vacate the land and hand over the same to the petitioner. Thereupon, the fourth respondent challenged the aforesaid proceedings of the Mandal Revenue Officer before this court in WP.No.10160 of 2000 on the ground that the plot in dispute was sold by the petitioner and the AP Assignment Act has no application to the facts of the case. The petitioner was arrayed as second respondent in WP.No.10160 of 2000. This court while disposing the said writ petition on 21-01-2002 held that the alleged sale if any was hit by Section 3 of the Act and clarified that if the illegal occupant, i.e., fourth respondent does not comply with the direction of the Mandal Revenue Officer, Madhira, then the Mandal Revenue Officer shall take necessary steps to restore the possession of the petitioner.

It is submitted that in the light of the directions of this court in WP.No.10160 of 2000, the Mandal Revenue Officer, through Proceedings RC.No.A2/158/90, dated 21-02-2002 directed the Mandal Revenue Inspector, Madhira to evict the illegal occupant, i.e., fourth respondent and restore the possession of the petitioner after conducting due panchanama. But the fourth respondent resisted the efforts of the revenue officials and remained in possession of the petitioner's land.

It is further submitted that in pursuance of the said proceedings, the Mandal Revenue Officer, Madhira, informed the Sub-Inspector of Police, Madhira (Urban) with all relevant particulars and requested him to take necessary action against the fourth respondent. But till date neither the revenue officials nor the police officials

have taken any action to restore the possession of the petitioner's land. Therefore, he filed the present writ petition seeking to declare the action of the respondents in not restoring the possession of the petitioner's land in Plot No.28, situate at Banjara Colony, Madhira, Khammam district from the illegal possession of the fourth respondent as arbitrary, illegal and violative of Article 14 and 300-A of the Constitution of India and consequently direct the respondents to restore his possession over the said land.

Heard the learned counsel for the petitioner as well as the learned Govt.Pleader for Revenue.

It is an admitted case of the petitioner and also the stand of the petitioner in the earlier round of litigation that the land in question was not sold to the fourth respondent, therefore, there is no transfer between the petitioner and fourth respondent with regard to the sale of the land in violation of conditions of the AP Assignment Act. If there is transfer then only the Mandal Revenue Officer has got powers to dispossess the fourth respondent and put the petitioner in Plot No.28, Banjara Colony, Madhira, Khammam district. The allegation made in the writ petition is that the fourth respondent has forcibly entered into possession of the said land and he is continuing possession of the land since 1985. Moreover, there is no transfer between the petitioner and the fourth respondent in violation of Section 3 (1) of the Act. The writ petition is misconceived and cannot be entertained under section 4 of the Act. The writ petition fails and is liable to be dismissed.

The writ petition is accordingly dismissed. No costs.

JUNE16th, 2005. ----------

I S L. ELIPE DHARMA RAO , J.

To

1 The District Collector, Khammam District.
2 The Superintendent of police, Khammam District.
3 The Mandal Revenue officer, Madhira Village, Khammam Dist.
4 Two C.Cs. to G.P. for Revenue,

High Court Buildings, High Court of A.P., Hyderabad (OUT)

5 1 CC to MR.THIRUMALA RAO

6 Two CD Copies.